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SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From:  
US Securities and Exchange Commission  
Office of FOIA Services  
Washington, DC 20549-2736

Extension: Rules 3a68-2 and 3a68-4(c)

SEC File No. 270-641, OMB Control No. 3235-0685

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission (“SEC”) is soliciting comments on the existing collection of information provided for Rules 3a68-2 and 3a68-4(c). The SEC plans to submit this existing collection of information to the Office of Management and Budget (“OMB”) for extension and approval.

Rule 3a68-2 creates a process for interested persons to request a joint interpretation by the SEC and the Commodity Futures Trading Commission (“CFTC”) (together with the SEC, the “Commissions”) regarding whether a particular instrument (or class of instruments) is a swap, a security-based swap, or both (i.e., a mixed swap). Under Rule 3a68-2, a person provides to the Commissions a copy of all material information regarding the terms of, and a statement of the economic characteristics and purpose of, each relevant agreement, contract, or transaction (or class thereof), along with that person’s determination as to whether each such agreement, contract, or transaction (or class thereof) should be characterized as a swap, security-based swap, or both (i.e., a mixed swap). The Commissions also may request the submitting person to provide additional information.

The SEC expects 25 requests pursuant to Rule 3a68-2 per year. The SEC estimates the total paperwork burden associated with preparing and submitting each request would be 20 hours to retrieve, review, and submit the information associated with the submission. This 20 hour burden is divided between the SEC and the CFTC, with 10 hours per response regarding reporting to the SEC and 10 hours of response regarding third party disclosure to the CFTC.<sup>1</sup> The SEC estimates this would result in an aggregate annual burden of 500 hours (25 requests x 20 hours/request).

The SEC estimates that the total costs resulting from a submission under Rule 3a68-2 would be approximately \$12,000 for outside attorneys to retrieve, review, and submit the information associated with the submission. The SEC estimates this would result in aggregate costs each year of \$300,000 (25 requests x 30 hours/request x \$400).

Rule 3a68-4(c) establishes a process for persons to request that the Commissions issue a joint order permitting such persons (and any other person or persons that subsequently lists, trades, or clears that class of mixed swap) to comply, as to parallel provisions only, with specified parallel provisions of either the Commodity Exchange Act (“CEA”) or the Securities Exchange Act of 1934 (“Exchange Act”), and related rules and regulations (collectively “specified parallel provisions”), instead of being required to comply with parallel provisions of both the CEA and the Exchange Act.

The SEC expects ten requests pursuant to Rule 3a68-4(c) per year. The SEC estimates that nine of these requests will have also been made in a request for a joint interpretation pursuant to Rule 3a68-2, and one will not have been. The SEC estimates the total burden for the one request for which the joint interpretation pursuant to 3a68-2 was not requested would be 30

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<sup>1</sup> The burdens imposed by the CFTC are included in this collection of information.

hours, and the total burden associated with the other nine requests would be 20 hours per request because some of the information required to be submitted pursuant to Rule 3a68-4(c) would have already been submitted pursuant to Rule 3a68-2. The burden in both cases is evenly divided between the SEC and the CFTC.

The SEC estimates that the total costs resulting from a submission under Rule 3a68-4(c) would be approximately \$20,000 for the services of outside attorneys to retrieve, review, and submit the information associated with the submission of the one request for which a request for a joint interpretation pursuant to Rule 3a68-2 was not previously made (1 request x 50 hours/request x \$400). For the nine requests for which a request for a joint interpretation pursuant to Rule 3a68-2 was previously made, the SEC estimates the total costs associated with preparing and submitting a party's request pursuant to Rule 3a68-4(c) would be \$6,000 less per request because, as discussed above, some of the information required to be submitted pursuant to Rule 3a68-4(c) already would have been submitted pursuant to Rule 3a68-2. The SEC estimates this would result in an aggregate cost each year of \$126,000 for the services of outside attorneys (9 requests x 35 hours/request x \$400).

Written comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the SEC, including whether the information shall have practical utility; (b) the accuracy of the SEC's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street, NE, Washington, DC 20549, or send an email to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov).

Brent J. Fields  
Secretary

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